

**REMARKS**

Claims 1-15 are currently pending in the present application. Claims 1 and 8 have been amended herein. Support for the present claim amendments may be found in the specification, at least, at page 4, lines 22-24. No new matter has been added by way of the present claim amendments.

***Rejections under 35 USC § 103***

Claims 1-15 stand rejected under 35 U.S.C 103(a) as being unpatentable over US Patent 6,403,716 to Nishihara et al. (hereinafter "Nishihara").

Nishihara discloses a thermoplastic rubber composition which comprises

(A) 1-99 parts by weight of a specific crosslinkable rubbery polymer having a glass transition temperature not higher than -30°C and

(B) 1-99 parts by weight of a polypropylene resin (B) containing propylene units of not less than 50% by weight and units of ethylene or an  $\alpha$ -olefin with 4-20 carbon atoms as a co-monomer co-polymerizable with propylene (total amount of (A) and (B) being 100 parts by weights),

said thermoplastic rubber composition being crosslinked,

wherein said (B) comprises a polypropylene resin (B1) which generates a torque higher than  $M_0$  after melting, and a polypropylene resin (B-2) which generates a torque not higher than  $M_0$  after melting, in a melting test of said (B) in the presence of an organic peroxide, and  $M_0$  being a torque right after complete melting (claim 1).

It appears that the Examiner has taken the position that "a crosslinkable rubbery polymer (A)" of Nishihara invention corresponds to "a partially or all crosslinked rubber (A)" of the present invention as well as "a polypropylene resin (B) (a mixture of a crosslinking type polypropylene resin (B-1) and a decomposition type polypropylene resin (B-2))" of Nishihara invention corresponds to "an isotactic polypropylene (B) and a syndiotactic polypropylene (C)" of the present invention.

Moreover, it appears that the Examiner considers the "decomposition type polypropylene resin (B-2)" of Nishihara invention as equivalent to "an isotactic polypropylene (B)" of the present invention because it explicitly describes that "an isotactic polypropylene homopolymer and an isotactic copolymer resin with other  $\alpha$ -olefins are preferable as the polypropylene resin (B-2)" at column 5, lines 46-58 of Nishihara.

However, although the Examiner asserts that Nishihara in no way teaches that the polypropylene B-1 is "not a syndiotactic polypropylene", it is more notable that Nishihara does not teach that the crosslinking type polypropylene resin (B-1) includes "a syndiotactic polypropylene (C)" of the present invention and only exemplifies an ethylene/propylene random copolymer and a polyethylene resin such as low density polyethylene as the crosslinking type polypropylene resin (B-1).

Moreover, even if the crosslinking type polypropylene resin identified as (B-1) in Nishihara includes a syndiotactic polypropylene (C), Nishihara fails to teach or suggest that "the ratio ((C)/(B)) by weight of the syndiotactic polypropylene (C) to the isotactic polypropylene (B) is greater than 0 and less than 1" as recited in present claims 1 and 8.

That is, Nishihara only discloses a thermoplastic elastomer composition comprising polypropylene resin having a ratio of (B-1)/(B-2) (i.e. (C)/(B) of the present invention) that equals 1 in working examples and is completely silent with respect to the above ratio.

Thus, it is clear that the constitution of the Nishihara invention and that of the present invention differ from each other.

Moreover, an object of the present invention is to provide a thermoplastic elastomer having higher extrusion moldability than conventional thermoplastic elastomers, and a molded article of the thermoplastic elastomer as described at page 2, lines 18-22 of the specification. The object of the present invention is accomplished for the first time by the present invention as recited in present claims 1 and 8.

More specifically, from a comparison of Nishihara, Examples 1-2 with Examples 1-2 in Table 1 at page 26 of the present specification, it is clear that the thermoplastic elastomer composition having a constitution as defined in present claims 1 and 8 exhibits unexpectedly superior product properties and especially superior extrusion characteristics, such as die residue or adherence to a guide roll, as compared to compositions outside the scope of the present claims 1 and 8.

Contrary to the present invention, the object of Nishihara is to provide a thermoplastic rubber composition which is superior in appearance, flexibility (feeling), mechanical strength and wear resistance and also enables stabilized quality due to an improved productivity as described at column 1, lines 38-44. Accordingly, there is no motivation in the prior art as a whole or in Nishihara to modify Nishihara to arrive at the presently claimed invention wherein

the "constitution" and "the object of the invention" differ, and wherein the present invention achieves unexpected results, as described above.

Therefore, present claims 1 and 8, as well as the claims depending from present claim 1 or 8, are not obvious over Nishihara. Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection.

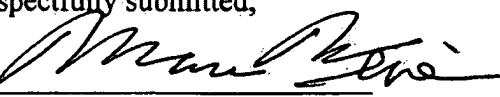
In view of the foregoing, Applicant believes the pending application is in condition for allowance. A Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Monique T. Cole, Reg. No. 60,154 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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